

REMARKS

Applicants, through their undersigned attorney, thank the Examiner, Patricia Mallari, and Primary Examiner Robert Nasser for the personal interview conducted with the undersigned on July 13, 2005. In the interview, the foregoing amendments to the claims, especially the amendments to claim 10, were discussed. The differences between the present invention and U.S. Patent No. 5,899,855 to Brown and U.S. Patent No. 5,924,996 to Cho et al. were also discussed. It was agreed that the claims now in the application, including amended claim 10, are patentable over the proposed combination of Brown and Cho et al.

By this amendment, Applicants have amended claims 3, 4, 5 and 10 to eliminate the language deemed informal by the Examiner.

Applicants have also amended claim 10 to recite that the regression function is chosen based on the obtained type identifying an able-bodied person or a diabetic patient. See, e.g., page 5, lines 25-28, page 6, lines 15-21 and page 17, line 12 et seq. of Applicants' specification.

In view of the foregoing amendments, reconsideration and withdrawal of the objections to claims 3, 4, 5 and 10 are requested.

Claims 1 to 3 and 10 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 5,899,855 to Brown in view of U.S. Patent No. 5,924,996 to Cho et al. Applicants traverse this rejection and request reconsideration thereof.

The rejected claims are directed to a blood sugar level measuring apparatus and to a blood sugar level measuring method. The apparatus includes a measuring portion for obtaining a plurality of measurement values related to a body surface and a measurement environment, a selecting means for selecting an able-bodied person

or a diabetic patient, and a calculation portion for calculating the blood sugar level based on the plurality of measurement values obtained in the measuring portion and the result of selection by the selecting means. The method of the present invention includes obtaining a plurality of measurement values relating to a body surface and a measurement environment, obtaining a type identifying an able-bodied person or a diabetic patient, and calculating a blood sugar level using the obtained plurality of measurement values and a regression function for either able-bodied persons or diabetic patients. The regression function is chosen based on the obtained type identifying an able-bodied person or a diabetic patient.

The patent to Brown discloses a modular self-care health monitoring system which employs a compact microprocessor-based unit such as a video game system of the type that includes switches for controlling device operation and a program cartridge. In accordance with the invention in Brown, the program cartridge adapts the microprocessor-based unit for operation which a glucose monitor or another type of health monitor. The microprocessor-based unit processes data supplied by the glucose monitor to supply signals for displaying relevant information on a display unit. The system provides for transmission of signals to a remote clearinghouse or a health care facility via telephone lines or other transmission media. The clearinghouse includes signal processing capability for transmission of reports to a remotely located health care professional via facsimile transmission.

As recognized by the Examiner, the Brown patent fails to describe calculating a blood sugar level using an obtained plurality of measurement values relating to a body surface and a measurement environment. While the Examiner alleges the Brown patent to disclose a selecting means by which one may select a patient ,

wherein the patient may be an able-bodied person or a diabetic patient, such a switching means is, in fact, not disclosed in Brown.

The Examiner alleges the computer 62 of Brown to be such a selecting means. While the computer 62 of Brown is disclosed to be able to obtain patient information from the clearinghouse, there is no disclosure that the computer includes selecting means for selecting an able-bodied person or a diabetic patient. In other words, there is no disclosure in Brown that the computer is programmed to select either an able-bodied person or a diabetic patient. Nor does the Brown patent disclose a method including obtaining a type identifying an able-bodied person or a diabetic patient.

In any event, the Examiner has apparently ignored the limitations in claims 1 and 10 requiring, in claim 1, the apparatus to include a calculation portion for calculating a blood sugar level based on, inter alia, the result of selection by the selecting means, and, in claim 10, the method to include calculating the blood sugar level using, inter alia, a regression function for either able-bodied persons or diabetic patients. As now clarified in claim 10, the regression function is chosen based on the obtained type identifying an able-bodied person or a diabetic patient. In Brown, there is absolutely no disclosure of how the blood sugar level is calculated. Certainly, there is no disclosure that the blood sugar level should be calculated based on the result of selection by the selecting means, i.e., using a regression function for either able-bodied persons or diabetic patients chosen based on the obtained type identifying an able-bodied person or a diabetic patient.

The patent to Cho et al. discloses a processing device for sensing the thermal interaction between the human the disclosed device. They thus obtain physical measurements are electronically converted and may be associated in an appropriate

manner to concentrations of certain components of human blood determined in an unambiguous manner, such as glucose. However, the Cho et al. patent does not disclose an apparatus including selecting means for selecting an able-bodied person or a diabetic patient or a method including obtaining a type identifying an able-bodied person or a diabetic patient. Moreover, the Cho et al. patent does not disclose a calculation portion for calculating a blood sugar level based on, inter alia, the result of selection by the selecting means or a method including calculating a blood sugar level using, inter alia, a regression function for either able-bodied persons or diabetic patients chosen based on the obtained identifying an able-bodied person or a diabetic patient.

Thus, even assuming, arguendo, one of ordinary skill in the art would have used the device of Cho et al. in the system of Brown, one would not arrive that the presently claimed apparatus or method. That is, even the proposed combination of Brown and Cho et al. would not have suggested the apparatus presently claimed, including the presently claimed selecting means and calculation portion, or the method presently claimed, including obtaining a type identifying an able-bodied person or a diabetic patient, and calculating a blood sugar level using, inter alia, a regression function for either able-bodied persons or diabetic patients chosen based on the obtained type identifying an able-bodied person or a diabetic patient.

Accordingly, claims 1-3 and 10 are patentable over the proposed combination of Brown and Cho et al.


Applicants note the indication of allowable of subject matter of claims 4 to 9 and 11. However, in view of the foregoing amendments and remarks, it is submitted that all of the claims now in the application are in condition for allowance.

Applicants note the Examiner has cited a number of documents as being pertinent to applicants' disclosure. However, since none of these documents has been applied in rejecting the claims formerly in the application, further discussion of these documents is deemed unnecessary.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 1021.43510X00), and please credit any excess fees to such deposit account.

Respectfully submitted,

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